

# State of South Dakota

SEVENTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2000

271D0270

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1078** - 2/2/00

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Brown (Richard), Brooks, Haley, Koetzle, Lucas, and McCoy  
and Senators Brosz, Brown (Arnold), and Olson

1 FOR AN ACT ENTITLED, An Act to revise the index factor in the state aid to education  
2 formula, to reduce state aid to education to certain school districts with excess general fund  
3 cash balances, and to create an education improvement fund.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 13-13-10.1 be amended to read as follows:

6 13-13-10.1. Terms used in this chapter mean:

7 (1) "General enrollment average daily membership," the average number of resident and  
8 nonresident kindergarten through twelfth grade pupils enrolled in all schools operated  
9 by the school district during the previous regular school year, minus average number  
10 of pupils for whom the district receives tuition, except pupils described in subdivision  
11 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the  
12 average number of pupils for whom the district pays tuition, except pupils for whom  
13 the district pays tuition pursuant to § 13-28-42;

14 (1A) Nonresident students who are in the care and custody of the Department of Social  
15 Services, the Unified Judicial System, the Department of Corrections, or other state

1 agencies and are attending a public school may be included in the average daily  
2 membership of the receiving district when enrolled in the receiving district. When  
3 counting a student who meets these criteria in its general enrollment average daily  
4 membership, the receiving district may begin the enrollment on the first day of  
5 attendance. The district of residence prior to the custodial transfer may not include  
6 students who meet these criteria in its general enrollment average daily membership  
7 after the student ceases to attend school in the resident district;

8 (2) "Adjusted average daily membership," calculated as follows:

9 (a) For districts with a general enrollment average daily membership of two  
10 hundred or less, multiply 1.2 times the general enrollment average daily  
11 membership;

12 (b) For districts with a general enrollment average daily membership of less than  
13 six hundred, but greater than two hundred, raise the general enrollment average  
14 daily membership to the 0.8293 power and multiply the result times 2.98;

15 (c) For districts with a general enrollment average daily membership of six hundred  
16 or more, multiply 1.0 times their general enrollment average daily membership;

17 (3) "Index factor," is the annual percentage change in the consumer price index for urban  
18 wage earners and clerical workers as computed by the Bureau of Labor Statistics of  
19 the United States Department of Labor for the year before the year immediately  
20 preceding the year of adjustment ~~or three percent, whichever is less~~ plus the  
21 enrollment adjustment. However, the index factor may not be less than three percent;

22 (3A) "Enrollment adjustment," is the negative of the annual percent change in the statewide  
23 general enrollment average daily membership for the year before the year immediately  
24 preceding the year of adjustment. However, the enrollment adjustment may not be less  
25 than zero;

1       (4)    "Per student allocation," for the period January 1, 1997, to June 30, 1997, inclusive,  
2            is \$1,675. For school fiscal year 1998, beginning on July 1, 1997, the per student  
3            allocation shall be \$3,350 increased by the index factor. Each school fiscal year  
4            thereafter, the per student allocation shall be the previous fiscal year's per student  
5            allocation increased by the index factor;

6       (5)    "Local need," the per student allocation multiplied by the adjusted average daily  
7            membership;

8       (6)    "Local effort," the amount of ad valorem taxes generated in a school fiscal year by  
9            applying the levies established pursuant to § 10-12-42.

10       Section 2. Any school district that receives revenue resulting from the enrollment adjustment  
11       shall use the resulting revenue to increase teachers' salaries. The Department of Education and  
12       Cultural Affairs shall certify to each school district the amount of revenue it will receive from  
13       general state aid to education resulting from the enrollment adjustment.

14       Section 3. School districts shall certify to the Department of Education and Cultural Affairs  
15       that the revenue received resulting from the enrollment adjustment is used to increase teachers'  
16       salaries.

17       Section 4. That § 13-37-35.1 be amended to read as follows:

18       13-37-35.1. Terms used in chapter 13-37 mean:

19       (1)    "Level one disability," a mild disability;

20       (2)    "Level two disability," a mental retardation or emotional disorder;

21       (3)    "Level three disability," hearing impairment, deafness, visual impairment,  
22            deaf-blindness, orthopedic impairment, or traumatic brain injury;

23       (4)    "Level four disability," autism;

24       (5)    "Level five disability," multiple disabilities;

25       (6)    "Index factor," is the annual percentage change in the consumer price index for urban

wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment ~~or three percent, whichever is less. However, the index factor may not be less than three percent or greater than five percent;~~

(7) "Local effort," is the amount of taxes payable each year, using a levy for the special education fund of a school district of one dollar and thirty-five cents per thousand dollars of taxable valuation;

(8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, 1999, is \$3,504. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by ~~the lesser of the index factor or three percent;~~

(9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, 1999, is \$7,914. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by ~~the lesser of the index factor or three percent;~~

(10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, 1999, is \$10,116. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by ~~the lesser of the index factor or three percent;~~

(11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, 1999, is \$14,705. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by ~~the lesser of the index factor or three percent;~~

(12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, 1999, is \$15,808. For each school year thereafter, the allocation for

a student with a level five disability shall be the previous fiscal year's allocation for such child increased by ~~the lesser of the index factor or three percent~~;

(13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education and Cultural Affairs in accordance with rules promulgated pursuant to § 13-37-1.1;

(14) "Resident average daily membership," the average number of resident kindergarten through twelfth grade pupils enrolled in all schools operated by the school district during the previous regular school year plus the average number of pupils for whom the district pays tuition and plus the average number of resident pupils enrolled in another school district under the provisions of § 13-28-40;

(15) "Nonpublic school," a sectarian organization or entity which is accredited by the secretary of education and cultural affairs for the purpose of instructing children of compulsory school age. This definition excludes any school that receives a majority of its revenues from public funds;

(16) "Nonpublic average daily membership," the average number of kindergarten through twelfth grade pupils enrolled during the previous regular school year in all nonpublic schools located within the boundaries of the public school district plus the average number of children under age sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the previous school year;

(17) "Special education average daily membership," resident average daily membership plus nonpublic average daily membership;

(18) "Local need," an amount to be determined as follows:

(a) Multiply the special education average daily membership by 0.089 and multiply the result by the allocation for a student with a level one disability;

1 (b) Multiply the number of students having a level two disability as reported on the  
2 child count for the previous school fiscal year by the allocation for a student  
3 with a level two disability;

4 (c) Multiply the number of students having a level three disability as reported on  
5 the child count for the previous school fiscal year by the allocation for a  
6 student with a level three disability;

7 (d) Multiply the number of students having a level four disability as reported on the  
8 child count for the previous school fiscal year by the allocation for a student  
9 with a level four disability;

10 (e) Multiply the number of students having a level five disability as reported on the  
11 child count for the previous school fiscal year by the allocation for a student  
12 with a level five disability;

13 (f) Sum the results of (a) through (e);

14 (19) "Effort factor," the school district's special education tax levy in dollars per thousand  
15 divided by \$1.35. The maximum effort factor is 1.0.

16 Section 5. Any teacher who teaches in a public school in South Dakota and who has obtained  
17 certification by the National Board for Professional Teaching Standards shall receive a payment  
18 of one thousand dollars from the Department of Education and Cultural Affairs as partial  
19 reimbursement for costs incurred in completing the certification process. If the teacher does not  
20 remain a teacher in a South Dakota public school for at least three years following such  
21 certification, the teacher shall refund the payment.

22 Section 6. In addition to the reimbursement provided pursuant to section 5 of this Act, any  
23 teacher who teaches in a public school in South Dakota and who has obtained certification by  
24 the National Board for Professional Teaching Standards shall receive a payment of two thousand  
25 dollars per year from the Department of Education and Cultural Affairs for the duration of the

1 certification, not to exceed ten years. A teacher is eligible for payment under this section only  
2 if the teacher teaches in a public school in South Dakota.

3 Section 7. Any teacher who teaches in a public school in South Dakota and who has obtained  
4 certification by the National Board for Professional Teaching Standards is exempt from any state  
5 certification renewal requirements and any other requirements for additional academic training  
6 for the duration of the national certification.

7 Section 8. Sections 5, 6, and 7 of this Act are effective on July 1, 2001.

8 Section 9. The Department of Education and Cultural Affairs may promulgate rules pursuant  
9 to chapter 1-26 to define general fund balances for the purposes for which the term is used in this  
10 Act and criteria for the Excess General Fund Oversight Board to grant waivers and to verify the  
11 certification by a school district that revenue resulting from the enrollment adjustment is used  
12 to increase teachers' salaries.

1    **BILL HISTORY**

2    1/15/00 First read in House and referred to Education. H.J. 55

3    2/1/00 Education Hog Housed.

4    2/1/00 Scheduled for Committee hearing on this date.

5    2/1/00 Education Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 324